RECENT DEVELOPMENTS IN DESEGREGATION

I. THE "SEPARATE BUT EQUAL" DOCTRINE—A HISTORY

The black man in the United States has had a long difficult struggle in his effort to achieve legal equality. From *Plessy v. Ferguson*,[1] through the Desegration Cases[2] up to *Green v. County School Board of New Kent County*,[3] he has been continually engaged in legal turmoil involving his fourteenth amendment rights.

Plessy was the first case of stature to come before the Supreme Court dealing with the constitutionality of segregation laws under the fourteenth amendment. The Court declared that the fourteenth amendment was not designed to abolish discrimination based on color.[4] It held that the fourteenth amendment was not intended to abolish racial segregation, that racial segregation does not imply the inferiority of the Negro and that segregation may be reasonable if equal facilities are provided. But the reasoning of the Court seemed to be inapposite to the policy behind the fourteenth amendment, which is to establish the Negro as a citizen and to protect him in the full enjoyment of his rights. With *Plessy*, the Court adopted the "separate but equal" doctrine, holding that if there exists the equality of privilege which the laws give to segregated groups, then the races may be separated and constitutional invalidity does not arise from the mere fact of separation.[5]

In the late 1940's the cases began approaching the proposition that segregation was discrimination *per se*. In *Mendez v. Westminister School District*,[6] the court held that equal protection of the laws pertaining to the public school system in California was not provided by furnishing the same facilities in separate schools and that schools must be open to all children regardless of race. The court in effect said that by depriving minority group children of social interaction and social equality, that they were deprived of equal protection.

In 1950, the Supreme Court decided two important cases which further undermined the "separate but equal" doctrine by ruling that in certain circumstances, segregated treatment would not be equal treatment. In *McLaurin v. Oklahoma State Regents*,[7] it was held to be a denial of equal protection to admit a Negro applicant to an all-white graduate

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[1] 163 U.S. 537 (1896).

[2] The series of desegregation cases that came from the Supreme Court in 1954, the most famous of which is Brown v. Board of Education, 347 U.S. 483 (1954).

[3] 391 U.S. 430 (1968).

[4] 163 U.S. 537, 544 (1896).

[5] *Id.* at 544.

[6] 64 F. Supp. 544 (S.D. Cal. 1946).

[7] 339 U.S. 637 (1950).

school and keep him segregated within that school.[8] The Court pointed out that under these conditions, a student would be receiving unequal treatment in that he would be deprived of the necessary association with his fellow students. These restrictions were said to impair McLaurin's ability to study and to get along with other students in the school and thereby handicap him in learning his profession.[9] In *Sweatt v. Painter*,[10] a Negro was refused admission to the all-white University of Texas Law School. His only alternative was to attend a newly organized law school for Negroes. The Court held that the Negro student had been denied equal protection of the law and stated that in substance the two law schools were not substantially equal.

> Whether the University of Texas Law School is compared with the original or the new law school for Negroes, we cannot find substantial equality in the educational opportunities offered white and Negro law students by the State. . . . [T]he University of Texas Law School possesses to a far greater degree those qualities which are incapable of objective measurement but which make for greatness in a law school."[11]

These two cases demonstrate the application by the courts of the concept of equality in conjunction with the "separate but equal" doctrine, and they rendered segregation laws ineffective in the area of graduate education.

II. The Desegregation Cases

Four years after the *McLaurin* decision, the Supreme Court decided one of the most important and influential cases affecting the fourteenth amendment since *Plessy*. The Court in *Brown v. Board of Education*[12] answered the basic question of whether segregation in public schools solely on the basis of race deprives the Negro child of an equal educational opportunity.

The suit was initiated on behalf of Negro children in the city of Topeka, Kansas, seeking to enjoin the enforcement of a Kansas statute that permitted cities with a population of over 15,000 to maintain separate school facilities for Negro and white students.[13] The plaintiffs claimed that they were being denied equal protection of the law under the fourteenth amendment but were refused relief in the trial court pursuant to the "separate but equal" doctrine of *Plessy v. Ferguson*.

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[8] McLaurin was not permitted to attend class with his white counterparts nor was he allowed to dine with them. He was admitted to the school, but then denied equal access to its facilities.

[9] 339 U.S. 637, 641 (1950).

[10] 339 U.S. 629 (1950).

[11] *Id.* at 633-34. Some of the qualities mentioned by the Court include reputation of the faculty, the administration, influence of the alumni, standing in the community, traditions and prestige.

[12] 347 U.S. 483 (1954).

[13] Law of Feb. 13, 1864, Ch. 67, § 4 [1864] Laws of Kan. 117 (repealed 1957).

The Supreme Court found that the two races had been equalized with respect to all "tangible" factors. The Court looked instead to the effect of segregation on public education. Public education was considered in light of its present place in American life to ascertain if segregation was depriving the Negro children of equal protection. The Court evaluated education as basic to our society and helpful to the individual to adjust normally to his environment, concluding that education was so important that the State must make it available to all on equal terms.

The Court took into consideration intangible factors which were not capable of objective measurement. The Court said: "To separate them from others of similar age and qualifications solely because of their race gererates a feeling of inferiority as to their status in the community. . . ."[14] The policy of separating the races was interpreted as denoting the inferiority of the Negro race and therefore separate educational facilities were found to be inherently unequal. The language in *Brown* indicates that the Court based its opinion upon the principle of unequal educational opportunity, even though the application of this principle required the Court to assess the total social impact of segregated education.

In 1955 the Court decided *Brown II*[15] and concerned itself with the question of what type of relief was necessary to commence desegregation. The Court required that school boards "make a prompt and reasonable start toward full complaince"[16] with the ruling in *Brown I*. Once a start toward desegregation had been made, said Chief Justice Warren speaking for the Court, additional time would be given if needed to carry out the ruling effectively.

> The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date.[17]

The district courts were then ordered to take such action as would be proper to admit all children to public schools on a racially nondiscriminatory basis and "with all deliberate speed."[18]

Brown I and *II* marked the beginning of a new legal and social era. Many questions were left still unanswered by the desegregation decisions such as: How quickly was "with all deliberate speed"? What are permissible ways of effectuating desegregation? Is desegregation synonomous with integration? Do the *Brown* decisions apply with equal strength to *de facto* as well as *de jure* segregation? These are some of

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[14] 347 U.S. 483, 494 (1954).

[15] Brown v. Board of Education, 349 U.S. 294 (1955).

[16] *Id.* at 300.

[17] *Id.*

[18] *Id.* at 301.

the issues that the courts have had to struggle with in the aftermath of the desegregation decisions.

III. RAMIFICATIONS OF BROWN

Because of the deliberate speed formula, the courts reacted flexibly with their assessment of local situations and thought in terms not of immediate but of ultimate compliance. In 1956, the Court of Appeals for the Fourth Circuit accepted a system of allowing a limited number of transfers of Negro children into white schools.[19] Except for this token integration, most schools remained segregated. These cases are representative of the main lines upon which desegregation moved until the 1960's. Tokenism was allowed when school boards accepted the principle of desegregation by the mere physical introduction of a few Negro pupils into the white schools.

Ingenious Southern school boards continued to invent other illusory desegregation plans. Two were termed the "freedom-of-choice" plan and the "free transfer" plan.[20] In a now famous Fifth Circuit decision,[21] the plaintiffs sought to invalidate such a freedom-of-choice plan. The court adopted the HEW Guidelines[22] as the minimum standard that must be complied with before a freedom-of-choice plan would be approved. The constitutionality of a plan, under the court's policy, would depend upon the degree of integration commensurate with the progress specified by the Guidelines. These Guidelines were to be used as a standard in deciding whether a plan was achieving integregation rapidly enough for the school district to qualify for federal aid. The goal was to bring all boards up to a "substantial" level of integregation.[23] In past cases, courts had utilized the HEW Guidelines in evaluating desegregation proposals,[24] and had often recommended that local school boards consult them when they draw up desegregation programs.[25] Some federal courts have read the *Brown* decision as requiring only an end to compulsory state assignment of pupils on a racial basis.[26] This interpretation has

[19] *See*, Covington v. Edwards, 264 F.2d 780 (4th Cir. 1959); Carson v. Warlick, 238 F.2d 724 (4th Cir. 1956).

[20] Under freedom-of-choice, a child could choose whichever school he wanted to go to with those students not making a choice assigned to the school previously attended. Under free transfer, the pupil is automatically assigned to a school within attendance zones drawn up by the Board of Education along geographic boundaries. Then any child may transfer to another school of his choice if space is available.

[21] United States v. Jefferson County Board of Education, 372 F.2d 836 (5th Cir. 1966).

[22] Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964, 45 C.F.R. § 181 (1967).

[23] *Id.* at § 181.54 (f).

[24] *e.g.*, Kemp v. Beasley, 352 F.2d 14 (8th Cir. 1965).

[25] *e.g.*, Singleton v. Jackson Municipal Separate School District, 348 F.2d 729, 730 (5th Cir. 1965).

[26] Briggs v. Elliott, 132 F. Supp. 776, 777 (E.D.S.C. 1955).

been used to legitimize free-choice plans, which result in little actual integration. However, to read *Brown* as being satisfied by a plan which achieves no real change from the effects of state enforced segregation, renders that decision meaningless. *United States v. Jefferson County Board of Education*[27] held that the only desegregation plan that meets constitutional standards is one that works. It also said that a district previously segregated *de jure* must take affirmative action to integrate its student body and that it cannot adopt a plan which results in a continuation of a dual system of racially identifiable schools. Under this decision, school authorities could not satisfy constitutional requirements by implementing an ineffective freedom-of-choice plan.

Whether the freedom-of-choice plans constitute adequate compliance with *Brown* was the issue determined in the recent Supreme Court case, *Green v. County School Board of New Kent County*.[28] The Supreme Court analyzed the freedom-of-choice plans using the criteria found in *Brown II*. The Court found the plan then in effect inadequate because Negro pupils continued to attend identifiable Negro schools and also because more effective means were available to eliminate these racially identifiable schools. In school systems formerly segregated by law, school boards have an affirmative duty to eliminate racial discrimination "root and branch."[29] The Court said that this duty was not discharged by offering to Negro and white families the freedom to choose which school their children will attend unless it leads to a conversion of the existing dual system to a unitary, nonracial system.[30]

In the companion case of *Raney* v. *Board of Education of the Gould School District*,[31] the Court held that district courts should retain jurisdiction in cases involving desegregation plans in order to ensure the constitutionality of that plan. In the other companion case of *Monroe* v. *Board of Commissioners of the City of Jackson*,[32] the Court held that free transfer plans[33] were to be tested in the same way as the freedom-of-choice plans.

The Court did not conclusively deny the use of freedom-of-choice plans, but it did make it clear that an end to racially identifiable schools is a primary goal of desegregation and that freedom-of-choice cannot be employed if more effective means of achieving this goal are available.

> In many southern communities, methods more effective than free choice are available: in *Green*, a division of Kent County into two geographic

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27 372 F.2d 836, 869, 873-76 (5th Cir. 1966).
28 391 U.S. 430 (1968).
29 *Id.* at 438.
30 *Id.* at 437-38.
31 391 U.S. 443 (1968).
32 391 U.S. 450 (1968).
33 *Id.*

> attendance zones might have achieved substantially more integration; in the companion *Monroe* case, use of a "feeder system"[34] appeared to be an effective method; in other communities the redrawing of attendance zones, judicious location of new school facilities, or enlargement of old ones can be effective in promoting an end to racially identifiable schools.[35]

The basis of the *Green* decision might have been that this particular freedom-of-choice plan would not be acceptable because it did not produce desegregation. Freedom-of-choice plans may not be acceptable under any conditions because there is really no free choice involved. The Negro child cannot go to any school that he wishes because political, social and economic pressures forbid him from choosing to attend a white school. Even if he finally chooses and attends a white school, he will not be accepted by the white student body majority. He will be subjected to undue pressures and made to feel inferior because he is a member of an unwanted minority. He would have equal access to the school and the facilities but his opportunity for acquiring an education would be hampered to a great extent because of serious psychological feelings of inferiority caused by the fact that he would not be accepted by the white children. If *Brown* means that all children have a right to an equal educational opportunity, how would this be achieved by the Negro child attending a school where he was made to feel like a stranger and ignored by his fellow classmates? But *Brown* orders the adoption of a non-racial basis for school population essentially to remove feelings of inferiority that segregation causes and also to maximize the child's educational opportunities. But, for example, would the freedom-of-choice plan accomplish this objective? Wouldn't the white students make these unwanted Negro children still feel inferior? So logically, it seems that the freedom-of-choice plan was not struck down because it was not conducive to equal educational opportunities, because even if the plan was in effect, the white students, through their attitudes, would not allow equal educational opportunity to exist.

The decisions, both *Green* and *Brown*, seem to suggest that Negro children need white class-mates in order to get a first-class education and that Negroes must learn to co-exist with whites because this is a white world. The Court seems to say that there are certain aspects of education that the Negro students cannot get without white classmates. The Court must have realized that any plans to have whites and blacks attend the same schools will not achieve present equality. But if the races are made to attend the same schools, this may be used as a means of eventually

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[34] *See* discussion note 20, *supra.*

[35] *The Supreme Court, 1967 Term*, 82 HARV. L. REV. 95, 115 (1968). The feeder system is a commonly used method of pupil assignment whereby pupils graduating at one level are automatically assigned to a specified school at the next higher level. *Id.* at 115 n.18.

achieving equality in subsequent generations. If integration will eventually achieve equality between the races then the present inequality that results from integration will have to be accepted as an adequate means to the ultimate goal of integration. This waiting period will be acceptable only if the assumption that integration does advance the Negro by helping him absorb white values and thus to lessen his inferiority has validity.

Recently another problem area has arisen in that the black students have demanded separate facilities in dormitories at universities and school decentralization by letting Negro teachers teach in Negro schools that are managed by a Negro administration. In these situations, separate but equal facilities are being demanded by, not forced upon, the minority. The Negro is asking for separation, not integration. Is the Negro demanding separate but equal facilities to the disadvantage of the white child? It may be argued that equal educational opportunity for both races can be achieved only by integration and therefore, if the Negro is accorded separate facilities this results in a denial of equal protection of the laws to the white children. But do white children need Negroes in their schools to achieve an equal education? Since white children are in the majority race and are accepted in this society, it is possible for them to receive equal educational opportunity without having Negro children in their schools. But this situation will only prolong the acceptance of the Negro in the white American society. The Negro will still be considered inferior and will not be able to absorb those aspects of American life that he would come into contact with if he had the association of white classmates. By demanding and receiving separate schools, he will not be receiving an equal educational opportunity.

If the State has a duty to see that every child has a chance for an equal education, then does it have a duty to see to it that all schools are integrated? If whites cannot have separate but equal facilities and blacks cannot have separate but equal facilities, then this leads to a school system that cannot be separate; in must be integrated. To insure that the Negro child will eventually rid himself of feelings of inferiority and be accepted in American society, he must attend an integrated school. In plans such as freedom-of-choice, the burden of integrating the schools is placed upon the child and his parents, while it should be the responsibility of the State to insure that each child is accorded equal treatment. If the State has the burden of running the school system, then it must also offer equal educational opportunity to all. The freedom-of-choice plans do not provide for this. There is no free choice in the plans, the burdens are placed upon the parents and children and not on the school boards. No integration is achieved, therefore, there is no resulting equal educational opportunity. Clearly the plans are not in accordance with

Brown and only integration that is fostered by State action can possibly correct the conditions which the *Brown* decision hoped to alleviate.

But *Green* does not address itself to the problem of the *de facto* segregation of the North. The failure of the Court to delve into the concept of equal educational opportunity and its understanding of the relationship between equality and integration will prolong the uncertainty of the constitutional status of free choice plans and of northern *de facto* segregation. The Court refused to comment on whether the separate education of the races in the North might be violative of the fourteenth amendment. The Court also left unsolved the problem of a minimum acceptable rate of integration or the method of determining when integration is reached when employing various methods to desegregate the schools. These questions are confronting many Northern courts and the answers have been varied.

IV. The Effect of the Desegregation Cases on De Facto Segregation — An Affirmative Duty To Integrate?

In the Northern states, there are no overt school policies that prohibit Negro and white children from attending the same school. *De facto* segregation is evidenced by a very high proportion of Negro children attending some schools and relatively few Negroes attending others. But this separation between blacks and whites takes place without the compulsion of state law or a school board policy requiring separation. This apparent absence of state action is important because the equal protection clause is directed against state action and because psychological harm emanating from segregated education, as in *Brown*, is indicated to be greater when officially imposed.

De facto segregation is caused many times by the neighborhood school policy. This policy uses attendance zones drawn by the school board around each school in the system. Each child in the zone is then required to attend the school within his neighborhood and transfers are prohibited. This system allows the board to anticipate the enrollment of each school in advance, so that requirements may be planned for before the period arrives. But since minorities tend to reside in the same areas, the schools in these areas become racially imbalanced. The rationale of the neighborhood school plan is that a child's education should be a part of his total community life.[36] It is in the context of the neighborhood school plan — that produces *de facto* segregation — that the constitutionality of racially imbalanced schools has been questioned.

Dissatisfaction with the neighborhood school plan in the North first

[36] Note, *Segregation Litigation in the 1960's: Is There an Affirmative Duty to Integrate the Schools?*, 39 IND. L. J. 606, 609 (1964).

took the form of lawsuits against the local school boards for intentionally maintaining segregated systems, and in other cases school boards were found to have gerrymandered district lines and built facilities with the intent to perpetrate racial separation.[37] These situations were ruled unconstitutional under *Brown*.

Gerrymandering cases have indicated that racial imbalance in itself is a sufficient basis for court action. In *Taylor* v. *Board of Education of New Rochelle*,[38] the plaintiffs charged that Lincoln School had been deliberately created and maintained in a racially segregated manner in violation of equal protection. The legal question that arises in these cases is whether the boards have an obligation to correct the segregated schools which result from *de facto* segregation. The boards would have to correct the situation if the fourteenth amendment forbids the maintenance of *de facto* segregation as well as *de jure* segregation.

The opinion in *Brown* may be interpreted to apply to *de facto* as well as to *de jure* segregation. This position holds all segregated education to be unequal and since *de facto* segregation is maintained and tacitly consented to by the state, its maintenance is a violation of the fourteenth amendment. *Brown* holds that the educational defects of segregated schooling when brought about by the compulsion of the state are a violation of equal protection. It is possible that an area that presently has segregated housing exists because of the enforcement of a former law allowing segregation. This could be considered as segregation enforced by state action. If it were considered so, the board might be obligated to correct it. This position was rejected in *Bell v. School City of Gary*.[39] In the trial court the plaintiffs asked if they had "a constitutional right to attend racially integrated schools and the defendant [had] a constitutional duty to provide and maintain a racially integrated school system."[40] The trial court determined that *Brown* only prohibited a positive policy of segregation and this was affirmed by the Court of Appeals. The plaintiffs were unable to overcome the fact that *Brown* required non-racial assignment of pupils, and that classification by geography is nonracial. The case leads to the conclusion that where school boards purposely separate the races this constitutes an unconstitutional discriminatory policy but where there is no intentional separation of the races, there is no constitutional violation. In *Blocker v. Board of Education of Manhasset*,[41] an area became segregated over a period of time and the district school lines that were established in 1929 were never

[37] Branche v. Board of Education, 204 F. Supp. 150 (E.D.N.Y. 1962); Taylor v. Board of Education, 294 F.2d 836 (2d Cir. 1961).

[38] 195 F. Supp. 231 (S.D.N.Y. 1961).

[39] 324 F.2d 209 (7th Cir. 1963).

[40] 213 F. Supp. 819, 820 (N.D. Ind. 1963).

[41] 226 F. Supp. 208 (E.D.N.Y. 1964).

altered. But the court did not hold that racial imbalance alone was unconstitutional. The case did hold that where a school board holds to a neighborhood school plan that remains unchanged and the area gradually produces a segregated school system, that the school board has acted in an unconstitutional manner.[42]

In *Balaban v. Rubin*,[43] the court questioned the legality of considering race as a criterion in order to equalize the ratio in school districts. The court held that the board of education could consider the question of race when zoning school districts and that in doing so, no constitutional rights were violated. This court rejected the position that there is a constitutional obligation to eliminate all racial imbalance by saying "[t]he Constitution does not require integration."[44] But the court did indicate that in some situations there is an obligation to prevent *de facto* segregation. It stated that there is a

> . . . clear mandate to the Boards of Education, in selecting the site for a new school and establishing its attendance zone, to act affirmatively in a manner which will prevent de facto segregation in such new school.[45]

The argument usually advanced in the *de facto* segregation cases employs the type of reasoning used in *Shelley v. Kraemer*:[46] that racially segregated neighborhoods are the result of private discrimination and that when the state requires students to attend these racially imbalanced schools, then the ensuing harm results because of the board's failure to remedy the situation.[47]

But the plaintiffs in *Brown* argued that they were receiving differential treatment solely because of their race and therefore the state enforced racial classification for schools was arbitrary. But the argument can be made that Negro students are not treated differently from other students when they are required to attend a neighborhood school because all pupils regardless of their race are required to attend these neighborhood schools. The neighborhood school plan is not arbitrary because it is independent of racial considerations, and so there would be no legal injury in neighborhood racially imbalanced schools in the sense of differential or arbitrary treatment. The policy considerations for the neighborhood school plan are independent of the racial composition of schools, therefore a neighborhood school does not imply a state sanction of separation of the races. The neighborhood school policy is not

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[42] *Id.* at 230.

[43] 248 N.Y.S.2d 574 (1964).

[44] *Id.* at 581.

[45] *Id.* at 583. This position is in accord with Jackson v. Pasadena City School District, 59 Cal. 2d 876, 382 P.2d 878 (1963).

[46] 334 U.S. 1 (1948).

[47] Sedler, *School Segregation in the North and West: Legal Aspects*, 7 ST. LOUIS U. L. J. 228, 230 n.14 (1962-63).

discriminatory in the absence of intentional segregation. This type of argument was used by the court in *Bell v. School City of Gary*.[48] The court applied the principle that the neighborhood school policy was permissible as long as there was a rational relationship between what the school board did and the legal end to be achieved.

> I have seen nothing in the many cases dealing with the segregation problem which leads me to believe that the law requires that a school system developed on the neighborhood school plan, honestly and conscienteously constructed with no intention or purpose to segregate the races, must be destroyed or abandoned because the resulting effect is to have a racial imbalance in certain schools where the district is populated almost entirely by Negroes or whites.[49]

But the discrimination in jobs and housing had driven the Negro into ghettos and the application of the neighborhood school policy compels their children by law to attend the slum schools in the neighborhood. This fact alone, i.e. the legal compulsion to attend the segregated school, should be sufficient state action to bring *de facto* segregation within the rule of *Brown*.

But if school boards undertake to alleviate racial imbalance, may they take criteria of race into consideration? To relieve racial imbalance there is no alternative but to take race into consideration. But *Brown* does say that classification on the basis of race violates the equal protection clause.[50] The language of *Brown* relates to invidious recognition of race for purposes of discrimination. There is nothing in *Brown* which suggests that recognition of race to relieve an inequality violates the fourteenth amendment.

In determining a violation of equal protection in this area of the law, one ought to consider if, in a *de facto* segregated area, there is equal educational opportunity. Where there is segregation that causes unequal educational opportunity, then the system should be constitutionally suspect. Since segregation in the public schools and unequal educational opportunity coincide,[51] the state appears to have the affirmative obligation to eliminate segregation, however it arises.

In *Barksdale v. Springfield School Committee*,[52] the court held that a state may be required to relieve racial imbalance in its public schools. The court held that there was no difference between coerced and *de facto* segregation and that if the neighborhood school policy results in segregation, then it must be abandoned or modified. This case does not

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[48] 324 F.2d 209 (7th Cir. 1963).

[49] *Id.* at 213.

[50] 347 U.S. 483, 495 (1954).

[51] See, 347 U.S. 483, 494 & n.11 (1954). This is expert social and psychological testimony showing the damage done to students who went to racially segregated schools.

[52] 237 F. Supp. 543 (D. Mass. 1965).

determine at what point the unequal opportunity inherent in racial imbalance and in *de facto* segregation rises to constitutional dimensions.

> A judgment must be made in each case based on the substantiality of the imbalance under the particular circumstances. Once substantial racial imbalance is shown . . . no further proof of unequal educational opportunity is required. . . . Numbers alone do not provide the answer. . . .
> . . . The determination as to substantial racial imbalance, and therefore unequal educational opportunity, is clearly within the competence of the judiciary. . . . [T]he guidelines will have to be staked out on a case-by-case basis.[53]

V. CONCLUSION

Equal educational opportunity is not the only demand of the Negro revolution of the 1960's, but it is the most important one. Without it the Negro will continue to be tied to the segregated slum where he will continue to suffer from social and educational stagnation. One of the objectives of public education is to provide the individual with the opportunity to develop his abilities to the fullest extent. This is being forestalled in *de facto* segregated schools. The consequence of racial segregation is alienation from the society. The integrated school is the first step in providing an equal education for Negro children and especially for the generations of Negro children to come.

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[53] Wright, *Public School Desegregation: Legal Remedies for De Facto Segregation*, 16 W. RES. L. REV. 478, 495-96 (1964-65).